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Resolutions adopted by the International Labour Conference at its 81st Session

(Geneva, June 1994)

I

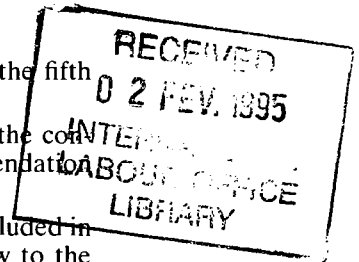
Resolution to place on the agenda of the next ordinary session of the Conference an item entitled: “Safety and health in mines”¹

The General Conference of the International Labour Organization,

Having adopted the report of the Committee appointed to consider the fifth item on the agenda,

Having in particular approved as general conclusions, with a view to the consultation of Governments, proposals for a Convention and a Recommendation concerning safety and health in mines;

Decides that an item entitled “Safety and health in mines” shall be included in the agenda of its next ordinary session for second discussion with a view to the adoption of a Convention and a Recommendation.



II

Resolution concerning post-apartheid South Africa²

The General Conference of the International Labour Organization,

Acclaiming the holding of the first free and democratic elections in the Republic of South Africa from 26 to 28 April 1994, resulting in the installation of a government of national unity, and the unanimous election on 9 May 1994 of Mr. Nelson Mandela as President of the Republic of South Africa,

Welcoming the readmission of South Africa as a Member of the International Labour Organization,

Noting with satisfaction the intention expressed by the Government of South Africa to recommend the immediate ratification of the ILO Conventions on freedom of association, collective bargaining, discrimination and forced labour,

Paying tribute to the important role played by the ILO and its constituents in the long and arduous struggle for the dismantling of apartheid,

Noting the decision taken by the ILO Governing Body at its 258th Session (November 1993) to suspend the application of the Declaration concerning Action against Apartheid, and to adopt a plan of action on assistance to South Africa in the transition to full democracy and in overcoming the effects of apartheid,

Noting further the resolution concerning South Africa adopted by the Eighth African Regional Conference of the ILO in Mauritius from 19 to 26 January 1994,

Conscious that the legacy of apartheid will take many years to eradicate and that vast resources will be required to provide for basic needs and to promote equality for all the people in South Africa,

Noting that technical assistance to South Africa for the purpose of overcoming the legacy of apartheid must be developed in consultation with the tripartite constituents in South Africa, and will be provided at their request, jointly or individually,

Underlining the need for the ILO to develop, in consultation with the tripartite constituents of South Africa, a programme of action aimed at assisting in the removal of the inherent and deep-seated inequalities in the structures of South African society,

¹ Adopted on 24 June 1994.

² Adopted on 22 June 1994.

Recognizing that the democratic exigencies of the transformation process from apartheid to a free, united and democratic society place a heavy responsibility on the shoulders of the tripartite South African social partners in the rebuilding and development of the country,

Convinced of the urgent need for the international community to commit itself to support fully the process of reconstruction and development in South Africa as that country enters the first stage of the post-apartheid era,

Considering that the recent political democratic developments have paved the way for the full respect of freedom and dignity of all human beings in South Africa, irrespective of race, creed or sex;

1. Rescinds forthwith the Declaration concerning Action against Apartheid in South Africa adopted by the International Labour Conference on 8 July 1964 and revised on 18 June 1981, 16 June 1988 and 20 June 1991, and consequently decides to dissolve forthwith the Conference Committee on Action against Apartheid.

2. Invites the Governing Body of the International Labour Office to instruct the Director-General:

(a) to adapt, in consultation with the tripartite constituents in South Africa, the plan of action approved by the Governing Body at its 258th Session (November 1993) to the social and economic development needs of post-apartheid South Africa, with special attention, inter alia, to the following:

- the promotion of trade union and human rights;
- capacity-building for employers' and workers' organizations;
- employment creation;
- promotion of small and medium-sized enterprises;
- reform and restructuring of labour market institutions and labour administration;
- labour relations and collective bargaining;
- the effective use of all factors of production;
- improvement of labour legislation and upgrading of labour standards;
- improvement of working and living conditions in the rural areas and for farmworkers;
- education and training, in particular vocational training;
- human resources development and management training;
- promotion of equality of opportunity and treatment; and
- occupational health and safety;

(b) to consult with the South African Government and employers' and workers' organizations to ensure that all appropriate action is taken to bring about the implementation of the ILO plan of action, and to report at regular intervals to the Governing Body on its follow-up;

(c) to coordinate with the agencies of the United Nations system in the planning and execution of programmes of socio-economic assistance to South Africa, particularly in the areas of human resources development, entrepreneurship development, social protection, health, housing, education, employment, promotion of equality and other basic needs;

(d) to encourage the Government of South Africa and the employers' and workers' organizations to implement the principles laid down in the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy to attract new investment;

(e) to provide the necessary support and assistance for the strengthening of tripartite structures, and of independent, strong and non-racial employers' and workers' organizations;

(f) to provide the necessary support and assistance to the tripartite constituents in South Africa to assist them in the adoption of labour legislation and other measures which are compatible with international labour standards, and to allow them to consider ratification of appropriate Conventions; in particular, to assist them to comply with those recommendations of the Fact-Finding and Conciliation Commission on Freedom of Association concerning South Africa which have not yet been implemented, in accordance with the conclusions and

recommendations of the Governing Body Committee on Freedom of Association.

3. Invites the Governing Body of the International Labour Office to call upon member States:

- (a) to continue to support South Africa in its efforts for the total elimination of the consequences of apartheid; and
- (b) to cooperate with and provide the necessary resources to the ILO in the implementation of the plan of action for technical assistance aimed at the social reconstruction and the long-term economic development of post-apartheid South Africa, through the regular budget, and from the international financial institutions of the United Nations system, and appropriate regional organizations, and from multi-bilateral donors.

III

Resolution concerning the 75th anniversary of the ILO and its future orientation¹

The General Conference of the International Labour Organization,

On the occasion of the 75th anniversary of the International Labour Organization and the 50th anniversary of the Declaration of Philadelphia,

Reaffirming the principles and fundamental values upon which the ILO was founded and which retain their relevance in the world today, including the promotion of social justice as the basis of universal peace,

Reaffirming also that because of its mandate and tripartite structure, the ILO has a unique role to play within the UN system,

Noting the particular importance of ILO Conventions covering fundamental rights, including Conventions Nos. 87, 98, 100, 29 and 105, and 111,

Mindful of the provisions contained in paragraph 3 of article 19 of the ILO Constitution,

Recognizing that the world has undergone considerable social and economic changes in recent years and anticipating that these will continue and will have varying effects on different countries,

Considering also that all institutions and structures need to be reviewed from time to time and where necessary strengthened, in order to ensure that their activities remain relevant to the needs of their members in a changing environment,

Acknowledging that structural change profoundly affects the world of work which requires the ILO efficiently to pursue its mandate and objectives concerning social justice, including the promotion of full, freely chosen and productive employment and the continued enhancement of working conditions,

Noting that the Governing Body of the ILO has already taken steps to improve the functioning of the International Labour Conference and the regional conferences, and to improve its own methods of work,

Thanking the Director-General for his Report to the current Conference entitled *Defending values, promoting change – Social justice in a global economy: An ILO agenda*, and taking note of the ideas and proposals it contains on the ILO's future orientation and activities of the ILO,

Further noting with interest the views expressed in the debate at the 81st Session of the International Labour Conference, as well as the recent contributions of several governments and of the social partners in the ILO to the discussion of the ILO's future;

1. Calls upon member States, and employers' and workers' organizations to reaffirm the principles and fundamental values upon which the ILO was founded and to contribute to a strengthening, where necessary, of the ILO's policy-making structures.

¹ Adopted on 22 June 1994.

2. Encourages also member States, and employers' and workers' organizations, to work together with a view to a renewal of the means of action of the ILO, and with a view to improving and optimizing the benefits it offers to its constituents in the light of changes in the world.

3. Requests the Director-General, in the light of the views expressed in the debate on his report to the 81st Session of the International Labour Conference, to present his views on the options available and to facilitate the discussion of these options by the Governing Body.

4. Requests the Governing Body of the International Labour Office:

- (a) to examine the ideas and proposals of the Director-General with a view to revitalizing further the ILO, adapting its means of action to the changing world environment and increasing its effectiveness;
- (b) to keep the Conference informed of the outcome.

IV

Resolution concerning the World Summit for Social Development¹

The General Conference of the International Labour Organization,

Welcoming the convening by the United Nations General Assembly of the World Summit for Social Development in Denmark in 1995,

Considering the vital importance of peace, economic growth and social justice as the essential components necessary for social development,

Underlining the critical importance for the expansion of full, freely chosen and productive employment, reduction of unemployment, reduction and elimination of poverty and promotion of social integration, which have been chosen as the Summit's core issues,

Considering that the social and living conditions of people become particularly vulnerable during periods of profound structural change,

Convinced that economic efficiency and growth, and their interaction with adequate social protection, are important prerequisites for successful national development, and that economic reforms should also lead to sustainable social progress,

Mindful of the need to address the social consequences that may arise from structural adjustment policies including those promoted by the International Monetary Fund and the World Bank,

Recognizing the importance of international cooperation to support and complement national efforts to promote social development,

Recognizing the urgent need for a major initiative by the international community to tackle global social problems, and the opportunity that the Summit offers for the preparation of an appropriate comprehensive programme of action for the United Nations system,

Considering that issues to be examined by the Summit are central to the mandate and the competence of the ILO,

Considering therefore that the ILO has a primary responsibility and role to play in the preparation and conduct of the Summit and in the consideration and implementation of the conclusions which fall within its competence,

Stressing the need for appropriate tripartite inputs at all stages of the Summit process,

Also stressing the importance of the participation of workers' and employers' organizations, as appropriate, in the development of policies for economic growth and employment generation which will contribute to the strengthening of social protection systems, especially for the most vulnerable groups of the populations,

Noting the work of the Governing Body Working Party on the World Summit for Social Development and the inputs by the ILO Secretariat to the Summit preparation,

¹ Adopted on 22 June 1994.

Also noting that discussions took place at the Informal Tripartite Meeting at the Ministerial Level on Employment held on 10 June 1994 on issues to be addressed in connection with the Summit;

1. Invites all member States, and where appropriate, workers' and employers' organizations:

- (a) to prepare for the World Summit for Social Development taking into consideration the competence, mandate and work of the ILO;
- (b) to adopt and implement a declaration and a programme of action which should effectively address the issues of expansion of productive employment and reduction of unemployment, reduction and elimination of poverty and promotion of social integration;
- (c) to promote the appropriate involvement of employers' and workers' organizations in the preparations for, conduct of, and follow-up to the Summit by:
 - (i) involving employers' and workers' organizations in the national preparations for the Summit;
 - (ii) considering including representatives of employers' and workers' organizations as advisers in the national delegations to the Summit;
 - (iii) considering the practical arrangements for an active participation by the representatives of employers' and workers' organizations at the Summit;
- (d) to recognize the primary competence of the ILO regarding core themes in the preparation for, conduct of and follow-up to the Summit;
- (e) to strengthen the active participation of workers' and employers' organizations in the formulation of follow-up action to deal with the issues arising out of the Summit.

2. Invites the Governing Body of the International Labour Office to instruct the Director-General:

- (a) to continue to make the necessary provisions for a full ILO input to the Summit process;
- (b) to take all opportunities to promote tripartite inputs to that process;
- (c) to take fully into account the need for the ILO to play a leading role in the follow-up to the Summit when preparing the programme and budget proposals for 1996-97 and in convening the second High-Level Meeting on Employment and Structural Adjustment;
- (d) to continue, in this context, to address the problems of structural adjustment, bearing in mind the persistent problems of developing countries, and especially the particular needs of the least developed countries, as well as the problems of countries in transition to a market economy.

V

Resolution concerning the role of private employment agencies in the functioning of labour markets¹

The General Conference of the International Labour Organization, meeting at its 81st Session (1994),

Having undertaken a comprehensive review of the functions and practices of employment agencies on the basis of Report VI entitled "The role of private employment agencies in the functioning of labour markets",

Recalling that the Governing Body at its 254th Session (November 1992) decided to place the item on the agenda of the 81st Session of the International Labour Conference as a general discussion item,

Having regard to the Employment Service Convention, 1948 (No. 88), and its accompanying Recommendation, 1948 (No. 83), as well as the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96);

Takes note of the following conclusions and invites the Governing Body of the International Labour Office to request the Director-General to give due consideration to them:

¹ Adopted on 23 June 1994.

Conclusions concerning the role of private employment agencies in the functioning of labour markets

INTRODUCTION

1. The Committee discussed the role of private employment agencies in the functioning of labour markets against the background of widespread concern with unemployment and poverty. The ILO strived to make full and productive employment the top priority on the agenda of policy-makers. This social objective should be supported by public, economic and financial policies which enhance sustainable economic development. Developing countries were not alone in facing increasing difficulties to ensure that there was support for the unemployed, those out of the labour force, the working poor and those having to face poor conditions of work. Social and economic issues, as well as policy options, were closely interrelated and had both short- and longer-term dimensions. It was in this wider framework that the Committee had reviewed the contributions made by public and private employment agencies.

2. The Committee had grouped its conclusions under 12 headings ordered in sequence from A to L as follows: (A) definition of a well-functioning labour market; (B) labour-market policy and actors in the labour market; (C) the role of public employment services (PES); (D) definition and typology of private employment agencies (PREA); (E) place and role of PREA; (F) practices of PREA; (G) objective and scope of regulations; (H) means for sound practice by PREA other than traditional regulation; (I) relationship between PES and PREA; (J) the case for better and increased cooperation; (K) relevant ILO standards; (L) prospects for future ILO standards.

A. Definition of a well-functioning labour market

3. The deliberations in the Committee clearly showed that all those involved in the activities of the labour market – workers, their representatives, employers and governments – took great interest in the functioning of the labour market and were concerned about the developments and ongoing changes in that market. The Committee found that all these interests and concerns formed a solid basis for the pursuit of the goal of improving the functioning of labour markets throughout the world, to create new jobs, to help jobseekers to find suitable jobs so that they could support themselves and their families and to help employers to develop their businesses through the recruitment of skilled and suitable workers. The Committee also found that there was still total consent on the fundamental principle, laid down in the Constitution of the International Labour Organization, that labour is not a commodity and that the freedom of jobseekers to search for jobs and the right for employers to take decisions concerning the recruitment of workers were fundamental elements in free market and mixed economies. The Committee also stressed the principles of freedom of association and collective bargaining as well as the promotion of employment creation in an industrial relations context that was effective, and in which workers' rights were fully respected.

4. These principles, however, did not exclude the possibility that measures might be needed to improve the functioning of labour markets and to look closely into the present international standard, namely Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). The Committee thoroughly discussed the activities of the labour market and examined in depth the actions of those who operated in the labour market.

5. There was general consent that labour markets were no longer stable, that changes in international and national economies had a great impact on labour markets and that there was a general acceleration in those changes which could have enormous consequences, both for enterprises and not least for workers and their families. The conditions which prevailed at the beginning of the twentieth century, and which influenced the labour standard under discussion in the Committee, no longer existed in most countries, whereas they were still present in others. There seemed to be a general worldwide trend to recognize the need to respond to change by employers, workers and governments when it came to forms of employment, interventions to influence the markets and the organization of workplaces.

6. Three fundamental functions could be identified in the labour market. First, it was a market-place where jobseekers and employers had the opportunity to find each other. Secondly, it was a source of information about jobseekers and vacancies which could be used by jobseekers, employers and governments to follow changes in the market in order to take necessary decisions concerning that market. Thirdly, it was a place where States could introduce the necessary programmes and incentives to influence the functioning of the market.

B. Labour-market policy and actors in the labour market

7. When looking at the labour market and its function as a market-place, the Committee found that a wide range of activities took place to help jobseekers and employers to find each other and conclude contracts of employment. In many countries, public employment agencies were predominant whereas private actors, both those working for profit and non-profit organizations, appeared more frequently in others. Very few countries seemed to comply with the general principles of Convention No. 96 that public agencies should be the rule and private employment agencies should be abolished as soon as possible.

8. The ILO report defined at least 16 different varieties of private employment agencies. It was clear that economic change would cause other kinds of agencies to develop in the future. The Committee recognized the freedom of employers, subject to national law and practice, to fulfil their recruitment needs through the use of these agencies.

9. The Committee also found that it was time to recognize the need for a wide variety of activities to be undertaken to help jobseekers and employers to find each other and to increase the activities on the market-place for jobs. Both public and private actors complemented each other in the market-place.

10. The Committee found, however, that it was a fundamental responsibility of States to see to it that the labour market was functioning well and to assume that responsibility by guaranteeing that there was an adequately-funded and well-functioning public employment service free of charge for jobseekers.

11. When it came to information about the labour market, the Committee found that it should be the responsibility of States to guarantee that information about jobseekers and vacancies was available to employers and workers, and that adequate statistical information existed to meet the need for action on the labour market. Whether the gathering and distribution of information should be public or private was not an issue to be determined by international labour standards, since traditions, legal frameworks and national practices varied between member States. In the upgrading of national employment market information systems and networking it seemed desirable, however, that the ILO and other international agencies should, upon request, provide assistance to developing countries and to those countries undergoing transformation to market economies. This would enable them to collect, analyse and disseminate accurate and timely labour market information in establishing and developing databanks.

12. The Committee firmly believed that States must take care to guarantee the right of individuals to have their personal integrity protected when information was processed on the labour market.

13. The Committee found that it was an important role for States, through employment programmes and other means, to influence the labour market in order to improve its functioning and facilitate employment for all jobseekers, including the unskilled and the vulnerable jobseekers such as workers with family responsibilities, on the basis of non-discrimination and freedom of access to the labour market. The importance of government activities to create new jobs and to improve possibilities for jobseekers and employers to enter into contracts of employment remained totally undisputed.

14. The background for the conclusions as drawn up by the Committee were further discussed in the following sections.

C. The role of public employment services (PES)

15. The Committee expressed its continuing support for the principles set out in Employment Services Convention, 1948 (No. 88), and, in particular, the duty of

the employment services to ensure, where necessary, in cooperation with other public and private bodies concerned, the best possible organization of the labour market.

16. Having recognized this essential role, governments had generally given these services the financial and other means to plan and implement their labour-market policies. In order to implement these policies, they had mainly concentrated on placement, guidance, employment training, labour market information, programmes for job, skill and geographical mobility, promotion and management of subsidized employment schemes, unemployment insurance, etc. In some countries, these programmes had been placed under the responsibility of several public institutions but remained coordinated by the PES.

17. For a very long time some countries were split among those which proceeded on the assumption that the labour market worked best when it was managed exclusively by public entities, mainly the PES, and those which took the view that the labour market worked best when it permitted PREA to operate side by side with PES.

18. Standards adopted by the ILO on the subject in 1949 clearly showed that the predominant view was that the labour market works best in the absence, or with the very limited presence, of PREA. That view also seemed to have been supported by the number of governments which had ratified the relevant ILO Conventions in this field.

19. Given the dynamic conditions of the labour market in recent years, it had become clear that the growing role and place of well-functioning PREA could be positive and that the essential role played by the PES had been and must be maintained. It was the general view that only a public entity such as the PES could be made responsible for such functions as management of unemployment insurance, labour-market information, management of special programmes to lead the most vulnerable jobseekers to the threshold of employability, and the management of subsidized job-promotion schemes.

20. For those reasons, the Committee believed that any consideration of the role and functions of PREA would be incomplete if considered in isolation from those of PES or outside the context of an effective labour market policy. Moreover, in view of their overall responsibilities for the labour market, the Committee found that some States might want to maintain a monopoly in those functions which they considered appropriate.

D. Definition and typology of private employment agencies (PREA)

21. PREA may be defined as private firms directly or indirectly providing a service in the labour market. The definition proposed in Chapter 2 of the ILO report could be considered as being both too extensive and too restrictive when referring to specific national conditions. Similarly, only national situations could give precise substance to the notion of *private*, which could relate to the nature of the capital, the type of law governing its activities or to whether the agency was profit or non-profit making. However, the definition in the ILO report was a useful reference for national circumstances.

22. Similar considerations applied concerning the typology proposed in the ILO report. In some countries some of the agencies listed were irrelevant or non-existent, or classified as service firms outside the employment field. In other countries, PREA were grouped into two categories, those providing a service (brokers or otherwise) in a one-to-one contractual relationship and those establishing a triangular contractual relationship, such as in the case of temporary work agencies. In other countries a legal distinction was made according to whether agencies, whatever their activity, were profit or non-profit making. The Committee considered it useful, however, for the ILO to continue to build on the classification provided in the report in order to make available for permanent future reference, at the request of governments, employers or workers organizations, an updated description of the agencies contained in the typology. This should not, however, preclude the pursuit of a more generic approach of describing PREA when considering a revised standard.

23. Temporary work agencies were one of the major types of firms mentioned in the ILO typology. The role that these agencies played in the market, the very particular nature of the triangular relationship which they entered into, and the legal problems deriving therefrom, explained why some governments had enacted special laws to regulate their activities. In some of these cases temporary work agencies were dealt with as quite distinct agencies.

24. The Committee considered that certain types of agency that were scarcely mentioned in the ILO report, and which operated in markets of developing countries, deserved special attention and possible regulation by national governments in relation to abuses which are committed, particularly in the case of contract labour agencies which hire home workers for processing particular goods (e.g. cigarette rolling, hides, etc.) or those that charge fees from jobseekers in exchange for the promise of employment abroad. These agencies should be considered in any future ILO discussion of private employment agencies.

E. Place and role of PREA

25. The Committee acknowledged that in a rapidly changing world, PREA had increased spectacularly in size and importance and had acquired growing recognition as important elements in labour markets.

26. The Committee concluded that well-functioning PREA could most certainly contribute to the effective functioning of the labour market. PREA could in many instances:

- reduce the time needed to fill vacancies;
- bring vacancies to the surface in the open market;
- sense changes in labour-market requirements and react quickly, avoiding delays and imbalances;
- match supply and demand of skills through relevant selection and recruitment methods, thus saving waste due to avoidable manpower turnover;
- satisfy needs not satisfactorily covered by public agencies due to the growing complexity in demand and supply of skills;
- build a bridge between unemployment and permanent employment by providing, mainly through temporary work assignments, gradual incorporation of jobseekers (especially new entrants or re-entrants) into the labour market;
- multiply the sources of information on job opportunities, thus increasing the overall stock of available information on the job market;
- reduce the time of deployment from one job to the other through outplacement techniques, thus contributing to a better labour force mobility;
- provide short-term employment training thus contributing to bridge the gap between the supply and demand of skills.

27. Overall, PREA activities added value to the labour market as market-place forces had shown through the growing demand for the services they provided. The fact that the activities of PREA had grown in quantity and quality and that governments had acknowledged that growth in their legislation, as shown in Chapter 3 of the ILO Report dealing with this question, were indicators of their contribution to the formation of wealth and of the value attributed by the market to the services offered by these agencies.

28. The Committee also noted that both workers' and employers' organizations might operate successfully as PREA.

F. Practices of PREA

29. The Committee acknowledged the fact that there were numerous concerns regarding the ethics of PREA, and that PREA were sometimes singled out for poor practices in relation to the interests of workers and jobseekers. During the Committee's deliberations this perception was frequently directed at temporary work agencies (TWAs). Whatever the circumstances, the behaviour of PREA called for rules to prevent or discourage them from engaging in conduct or practices that undermined workers' rights, be they in the areas of wages, general conditions of work, industrial relations or safety and health.

30. Misconduct in the field of employment must be underscored because it was there that people's jobs and people's professional lives were at stake. Means must be available to deal with PREA which were found to be in violation of laws and regulations.

31. The circumstances in which PREA operated and the employment relationships they entered into with jobseekers could often lead to exploitation and improper conduct. The Committee had listened to allegations from Workers' members describing how some PREA had circumvented laws to help employers reduce workers' wages, to render trade union organization difficult or impossible, to ignore regulations concerning equal opportunities, to avoid paying benefits to which workers were legally entitled and to aid in the process of replacing permanent with temporary jobs.

32. The Committee's recognition of the importance and relevance of the role of PREA in labour markets should in no way be interpreted as an endorsement of any infringements they might commit of the laws that exist to protect workers' rights and interests. If new international standards were to be drawn up on this subject, special care should be taken to include provisions ensuring adequate protection against such abuses for workers and jobseekers alike to the extent that these were not guaranteed by other ILO standards.

33. Special attention should be given to those agencies which did placements abroad due to the serious consequences of some unfair practices for both workers and employers.

G. Objective and scope of regulations

34. The Committee acknowledged that PREA should not and might not wish to operate in an environment without rules. The Committee agreed that there might be several sources of rules governing the activities of PREA. These possible sources were: common business law, labour law, business and labour jurisprudence, collective agreements, specific laws and rules dealing with PREA, professional codes of conduct adopted by associations of PREA, internal rules of these agencies as well as ILO Conventions and Recommendations.

35. Each national context determined the nature of the rules governing PREA. The mix of rules originating from different sources depended on the maturity of the labour market, the culture and behaviour of its actors, existing traditions and practice in collective bargaining, etc. In some labour markets, when the risk of unprofessional behaviour was high, specific rules directed at PREA and the adoption of a licensing system might be recommended. In others, where a tradition of fair practice was well established, common business law complemented by codes of professional ethics could form a satisfactory regulatory framework. In others still, collective agreements could provide a reliable legal basis.

36. The Committee was well aware of the dangers of over-regulation. The worst that could happen was for PREA to be governed by several redundant, incompatible or contradictory rules emanating from different legal sources. For example, a law on the protection of confidentiality and a specific law on some PREA could be contradictory in regulating the treatment of computerized personal files. Similarly, different PREA competing in the same segment of the market and offering similar services could be regulated by different laws: common business law for one, a specific law for the other.

37. The general approach that the Committee supported was for governments to adopt a pragmatic attitude concerning the regulation of PREA. Governments should rely on the laws and rules in force, whenever possible, before considering specific regulations.

38. In all cases, regulations concerning PREA should be designed in consultation with representatives of the business concerned and with workers' organizations.

H. Means for sound practice by PREA other than traditional regulations

39. The Committee recognized that governments might seek other means than the traditional legal or regulatory instruments to establish fair practice by those who had a role in the labour market. Some of these means consisted in setting

common professional codes of conduct governing the following: professionals from the public or private sectors dealing with jobseekers; certification of the profession of employment adviser (in the same way as was done in some countries for translators or accountants); common job classification within the employment service sector, as well as social partner-based councils to discuss policy and performance.

40. Similarly, the Committee believed that both PES and PREA could agree, in a more or less formal way, on common standards of fair practice such as the fair use of appropriate selection tests, vacancy advertisements, interviewing and investigation methods prior to hiring.

I. Relationship between PES and PREA

41. In many countries PES and PREA tended to operate separately. PES were generally available to all jobseekers and served in particular the disadvantaged and the lower-skilled jobseekers. PREA addressed the market of the rare, specialized or higher skills where prior selection was crucial to hiring, the temporary job market, or specific segments of the market requiring particular services such as outplacement. Overlapping on the same market by PES and PREA was more the exception than the rule.

42. The Committee believed that there was scope for increased cooperation between the PES and PREA. Many PES could not afford to enter into direct competition, even where such competition might be beneficial. PES must, however, endeavour to offer the best range of services possible, in order to ensure that they fulfilled their social duties towards all jobseekers, including the disadvantaged, and offered the common employer a means to satisfy his staffing needs. Labour-market cooperation between all the actors would assist in the provision of the broadest scope of services.

43. For this relationship to work effectively, the Committee would, for the most part, agree that fee charging by PES would not apply in relation to access to job vacancies.

J. The case for better and increased cooperation

44. The Committee expressed its firm support for all attempts to establish permanent cooperation between PES and PREA. It was indeed the Committee's opinion that cooperation was a desirable institutional form of behaviour.

45. Cooperation between public institutions and private employment firms was not normally established by law. Rather, it was the result of tradition, administrative culture and behaviour by all actors in the labour market.

46. Yet, measures could be taken by governments to promote cooperation. For example, the practice of using private firms to implement labour-market schemes could lead to more and better cooperation. Similarly, the decision to advertise vacancies in each other's premises, or to allow mutual access to computerized vacancy files could also be conducive to improved working relations. In some countries, inviting staff from PREA to specialized training or seminars conducted by PES can develop a spirit of cooperation and understanding. Exchanging staff or sharing premises can be other unconventional and efficient ways of building beneficial personal contacts among staff of both organizations.

47. In general, cooperation could best be achieved when the PES recognized its value and coordinated with PREA to build the broadest possible spectrum of programmes.

48. For some countries a network of PREA complementing the activities of the PES could best be established through joint planning, delegation of specific duties and sharing of information.

K. Relevant ILO standards

49. Three main ILO standards dealt, directly or indirectly, with the activities of PREA. These were the Employment Services Convention, 1948 (No. 88), and its corresponding Recommendation No. 83 and the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96).

50. Most Committee members found that the principles underlying Convention No. 96 were not relevant to their national situations. It appeared obvious that this Convention had been adopted in line with the provisions contained in the previous standard adopted on this question, namely the Fee-Charging Employment Agencies Convention, 1933 (No. 34), which openly opposed these institutions. The overt objective of Convention No. 96 was either to ban PREA or to place them under tight supervision by government authorities. As suggested in the preceding sections of this document, the Committee believed that all these principles, except the one referred to in paragraph 53 below, no longer corresponded to today's reality in modern labour markets.

51. Part II of Convention No. 96 appeared to be removed from current practice in most labour markets. The Committee was convinced that the four recent denunciations of this part of the Convention were only partial evidence of a more general loss of credibility toward the contents of this part of the standard.

52. Part III of Convention No. 96 in a number of respects did not reflect current realities: narrow scope (only the job brokerage service was considered); inflexible type of supervision (only the licensing system was envisaged); constraining (yearly renewal of licenses) or obsolete provisions in regard to current functioning of modern labour markets (notification to supervisory authority of fees charged to clients).

53. The Committee believed, however, that one provision contained in Convention No. 96 should be maintained, namely that concerning the payment of services offered by PREA. It was indeed essential to recall that, with very few exceptions such as services provided to high-level professionals and executives, the Committee remained in favour of the principle that fees should not be charged to the jobseeker.

L. Prospects for future ILO standards

54. The Committee held the view that the ILO should proceed to revise Convention No. 96.

55. It was the Committee's view that the revised standard should pursue the following objectives:

- set the pattern for response to the dynamics of changing labour-market functions and recall the role of its actors;
- draw up general parameters to describe the main actors, namely, the PES and PREA, as well as the nature of the relationship both between themselves and with their clients;
- establish general principles and provide guidance that protect:
 - (i) labour markets against poor and unethical practices;
 - (ii) workers' interests including where the stability of industrial relations' systems might be affected by some practices of PREA (these principles should consider the concerns of some (but not all) Committee members with regard to triangular employment relationships, including contract labour, TWAs and staff-leasing arrangements);
 - (iii) workers recruited in one country for work in another;
- create environments that allow for the improved functioning of all employment agencies;
- ensure that national governments would be free to determine how the above objectives would be met.

VI

Resolutions concerning the assessment of contributions of new member States¹

The General Conference of the International Labour Organization,
Decides, in accordance with article 9, paragraph 2, of the Financial Regulations, that the contribution of South Africa to the ILO budget for the period of

¹ Adopted on 20 June 1994.

its membership in the Organization in 1994 be based on an annual assessment rate of 0.40 per cent.

The General Conference of the International Labour Organization,

Decides, in accordance with article 9, paragraph 2, of the Financial Regulations, that the rates of assessment of the contributions of Georgia, Tajikistan and Turkmenistan for 1994 be 0.21 per cent, 0.05 per cent and 0.06 per cent respectively.

The General Conference of the International Labour Organization,

In accordance with article 9, paragraph 2, of the Financial Regulations:

- (a) decides that the contributions of Eritrea and the former Yugoslav Republic of Macedonia for the periods of their membership in the Organization in 1993 be based on annual assessment rates of 0.01 per cent and 0.02 per cent respectively, and that the resulting assessment for 1993 of the former Yugoslav Republic of Macedonia be deducted from that of Yugoslavia for 1993;
- (b) decides that the rates of assessment for 1994 of Eritrea and the former Yugoslav Republic of Macedonia be 0.01 per cent and 0.02 per cent respectively and that the rate of assessment of the former Yugoslav Republic of Macedonia be deducted from that of Yugoslavia for 1994 of 0.16 per cent.

The General Conference of the International Labour Organization,

In accordance with article 9, paragraph 2, of the Financial Regulations:

- (a) decides that the contributions of the Czech Republic and Slovakia for their periods of membership in the Organization in 1993 be based on annual assessment rates of 0.42 per cent and 0.13 per cent respectively;
- (b) decides that the total credits that were due to the former Czechoslovakia in 1993 of 267,332 Swiss francs be allocated to the Czech Republic and Slovakia as credits against their assessments for the periods of their membership in 1993 proportionate to their respective rates of assessment for 1993 proposed in subparagraph (a);
- (c) decides that the definitive rates of assessment of the Czech Republic and Slovakia for the year 1994 be 0.42 per cent and 0.13 per cent respectively;
- (d) decides that the total credits due to the former Czechoslovakia of 2,109 Swiss francs in 1994 and 1,230 Swiss francs in 1995 be allocated to the Czech Republic and Slovakia as credits against their assessments for the 1994 and 1995 years proportionate to their respective rates of assessment for those years.

The General Conference of the International Labour Organization,

Decides, in accordance with article 9, paragraph 2, of the Financial Regulations, that the contribution of Oman to the ILO budget for the period of its membership in the Organization in 1994 be based on an annual assessment rate of 0.03 per cent.

VII

Resolution concerning the scale of assessment of contributions for 1995¹

The General Conference of the International Labour Organization,

Decides, in accordance with article 9, paragraph 2, of the Financial Regulations, to adopt the draft scale of assessments for the 1995 year as set out in column 3 (headed "Percentage 1995") of Appendix I to this report.

VIII

Resolution concerning an arrangement for the settlement of amounts due by Viet Nam¹

The General Conference of the International Labour Organization,

Having regard to paragraph 7 of article 10 of the Financial Regulations,

Approves the arrangement with the Government of Viet Nam for the settlement of the amount of 182,960 Swiss francs due in respect of its previous period of membership of the ILO by the payment of 15 annual instalments made up of 14 equal annual instalments of 12,190 Swiss francs and a final fifteenth instalment of 12,300 Swiss francs, beginning in 1993.

¹ Adopted on 20 June 1994.

IX

Resolution concerning an arrangement for the settlement of amounts due by Albania¹

The General Conference of the International Labour Organization,
Having regard to paragraph 7 of article 10 of the Financial Regulations;
Accepts the proposal of the Government of Albania for the settlement of the amount of 135,142 Swiss francs due in respect of its previous period of membership of the ILO by the payment of 12 annual instalments made up of 11 equal annual instalments of 11,262 Swiss francs and a final twelfth instalment of 11,260 Swiss francs, and agrees that this arrangement should come into force retroactively as from 1 January 1994, with the first of the 12 annual instalments being payable in 1994.

X

Resolution concerning the Financial Report and Audited Financial Statements for 1992-93¹

The General Conference of the International Labour Organization;
Decides, in accordance with article 29 of the Financial Regulations, to adopt the Financial Report and Audited Financial Statements for 1992-93.

XI

Resolution concerning the treatment of the 1992-93 cash surplus¹

The General Conference of the International Labour Organization,
Noting that for the 1992-93 biennium an excess of regular budget income over regular budget expenditure has resulted in a cash surplus of 24,230,334 Swiss francs (equivalent to \$16,710,574 at the 1994-95 budget rate of exchange of 1.45 Swiss francs to the US dollar);

Decides, as an exceptional one-time measure and in derogation of article 18 of the Financial Regulations, to finance expenditure itemized in Appendix IV to the First Report of the Programme, Financial and Administrative Committee (reproduced as Appendix II to this Report), amounting to 21,729,700 Swiss francs from the cash surplus, thereby reducing by a corresponding amount the sum which would otherwise be available for reducing member States' contributions for 1994-95,

Notes that, taking into account the above appropriation, the amount available under article 18 of the Financial Regulations for reducing the assessed contributions of member States for 1995 will be 2,500,634 Swiss francs.

XII

Resolution concerning the treatment of the amount received from the Compagnie Générale de Climatisation et de Maintenance¹

The General Conference of the International Labour Organization;
Decides, in derogation of article 11.1 of the Financial Regulations, that the amount of 3,668,185 Swiss francs received from the Compagnie Générale de Climatisation et de Maintenance be paid into the Building and Accommodation Fund for the maintenance of the headquarters building's technical installations.

¹ Adopted on 20 June 1994.

XIII

Resolution concerning the composition of the Administrative Tribunal of the International Labour Organization¹

The General Conference of the International Labour Organization,

In accordance with article III of the Statute of the Administrative Tribunal of the International Labour Organization;

Decides to extend the terms of office of Sir William Douglas (Barbados), Mr. Edilbert Razafindralambo (Madagascar), and Mr. José Maria Ruda (Argentina) as judges by a further period of three years, with effect from June 1994.

¹ Adopted on 20 June 1994.

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